

Assembly Bill No. 1596

Passed the Assembly August 19, 2010

Chief Clerk of the Assembly

Passed the Senate August 18, 2010

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2010, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 527.6, 527.8, 527.10, 527.85, and 527.9 of the Code of Civil Procedure, to amend Sections 241, 242, 243, 244, 245, 246, 6304, 6320, 6320.5, 6322.7, 6345, 6380, 6384, 6387, and 6389 of, to add Section 6229 to, and to repeal and add Section 6302 of, the Family Code, to amend Section 6103.2 of the Government Code, and to amend Sections 213.5, 15657.03, and 15657.04 of the Welfare and Institutions Code, relating to protective orders.

LEGISLATIVE COUNSEL'S DIGEST

AB 1596, Hayashi. Protective orders: enforcement.

This bill would eliminate the requirement of residence with the plaintiff.

(1) Existing law provides that a hearing on a petition for a civil harassment or workplace violence restraining order must be held within 15 days from the date a temporary restraining order is issued, or within 21 days, if good cause appears to the court.

This bill would provide that a hearing on a petition for a civil harassment or workplace violence restraining order must be held within 21 days from the date a temporary restraining order is granted or denied, or within 25 days, if good cause appears to the court.

(2) Existing law requires the court to order the plaintiff, or his or her attorney, to deliver a copy of each civil harassment, workplace violence, or elder or dependent adult abuse restraining order to specified law enforcement agencies within one business day. Existing law requires the Department of Justice to maintain a statewide telecommunications system, entitled the California Law Enforcement Telecommunications System, for use by law enforcement agencies.

This bill would provide that courts may alternately transmit these orders to law enforcement for entry into the California Law Enforcement Telecommunications System (CLETS), or enter the order directly into CLETS with the approval of the Department of Justice.

(3) Existing law provides that an elder or dependent adult who has suffered abuse may seek a protective order.

This bill would allow an action to be brought on behalf of an elder or dependent adult by a conservator or by specified other authorized persons.

(4) Existing law authorizes a court, on a showing of good cause, to include in a civil harassment restraining order other named family or household members who reside with the plaintiff.

(5) This bill also would make technical and conforming changes to those provisions of law that govern the issuance of protective orders.

The people of the State of California do enact as follows:

SECTION 1. Section 527.6 of the Code of Civil Procedure is amended to read:

527.6. (a) (1) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order and an injunction prohibiting harassment as provided in this section.

(2) A minor, under 12 years of age, accompanied by a duly appointed and acting guardian ad litem, shall be permitted to appear in court without counsel for the limited purpose of requesting or opposing a request for a temporary restraining order or injunction, or both, under this section as provided in Section 374.

(b) For the purposes of this section:

(1) "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an individual, making harassing telephone calls to an individual, or sending harassing correspondence to an individual by any means, including, but not limited to, the use of public or private mails, interoffice mail, fax, or computer e-mail. Constitutionally protected activity is not included within the meaning of "course of conduct."

(2) "Credible threat of violence" is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) "Harassment" is unlawful violence, a credible threat of violence, or a knowing and willful course of conduct directed at

a specific person that seriously alarms, annoys, or harasses the person, and that serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the petitioner.

(4) “Petitioner” means the person to be protected by the temporary restraining order and injunction and, if the court grants the petition, the protected person.

(5) “Respondent” means the person against whom the temporary restraining order and injunction are sought and, if the petition is granted, the restrained person.

(6) “Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls, as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(7) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members.

(d) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the restraining orders described in paragraph (6) of subdivision (b). A temporary restraining order may be issued with or without notice, based on a declaration that, to the satisfaction of the court, shows reasonable proof of harassment of the petitioner by the respondent, and that great or irreparable harm would result to the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) A temporary restraining order issued under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or, if the court extends the time for hearing under subdivision (g), not to exceed 25 days, unless otherwise modified or terminated by the court.

(g) Within 21 days, or, if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition for the injunction. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(h) The respondent may file a response that explains, excuses, justifies, or denies the alleged harassment or may file a cross-petition under this section.

(i) At the hearing, the judge shall receive any testimony that is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment.

(j) (1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further harassment since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(k) This section does not preclude either party from representation by private counsel or from appearing on the party's own behalf.

(l) In a proceeding under this section if there are allegations of unlawful violence or credible threats of violence, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of violence. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of violence in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of violence and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(m) Upon the filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o) (1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p) (1) If a respondent, named in a restraining order issued after a hearing, has not been served personally with the order but has

received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with this temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the restraining order will be served on you by mail at the following address: ____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(q) (1) Information on any temporary restraining order or injunction relating to civil harassment issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to a law enforcement agency having

jurisdiction over the residence of the petitioner and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported harassment involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of harassment that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the protected person cannot produce a certified copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and shall at that time also enforce the order. Verbal notice of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code.

(r) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(s) Any willful disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(u) This section does not apply to any action or proceeding covered by Title 1.6C (commencing with Section 1788) of the Civil Code or by Division 10 (commencing with Section 6200) of the Family Code. This section does not preclude a petitioner from using other existing civil remedies.

(v) (1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to civil harassment issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(w) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against the petitioner, or stalked the petitioner, or acted or spoken in any other manner that has placed the petitioner in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking

or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(x) (1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process by a sheriff or marshal of a protective order, restraining order, or injunction to be issued, if either of the following conditions apply:

(A) The protective order, restraining order, or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The protective order, restraining order, or injunction issued pursuant to this section is based upon unlawful violence or a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

SEC. 2. Section 527.8 of the Code of Civil Procedure is amended to read:

527.8. (a) Any employer, whose employee has suffered unlawful violence or a credible threat of violence from any individual, that can reasonably be construed to be carried out or to have been carried out at the workplace, may seek a temporary restraining order and an injunction on behalf of the employee and, at the discretion of the court, any number of other employees at the workplace, and, if appropriate, other employees at other workplaces of the employer.

(b) For the purposes of this section:

(1) “Course of conduct” is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including following or stalking an employee to or from the place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(2) “Credible threat of violence” is a knowing and willful statement or course of conduct that would place a reasonable person

in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(3) “Employer” and “employee” mean persons defined in Section 350 of the Labor Code. “Employer” also includes a federal agency, the state, a state agency, a city, county, or district, and a private, public, or quasi-public corporation, or any public agency thereof or therein. “Employee” also includes the members of boards of directors of private, public, and quasi-public corporations and elected and appointed public officers. For purposes of this section only, “employee” also includes a volunteer or independent contractor who performs services for the employer at the employer’s worksite.

(4) “Petitioner” means the employer that petitions under subdivision (a) for a temporary restraining order and injunction.

(5) “Respondent” means the person against whom the temporary restraining order and injunction are sought and, if the petition is granted, the restrained person.

(6) “Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the employee.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(7) “Unlawful violence” is any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section

may include other named family or household members, or other persons employed at the employee's workplace or workplaces.

(e) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the petitioner also files a declaration that, to the satisfaction of the court, shows reasonable proof that an employee has suffered unlawful violence or a credible threat of violence by the respondent, and that great or irreparable harm would result to an employee. The temporary restraining order may include any of the protective orders described in paragraph (6) of subdivision (b).

(f) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(g) A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 21 days, or if the court extends the time for hearing under subdivision (h), not to exceed 25 days, unless otherwise modified or terminated by the court.

(h) Within 21 days, or if good cause appears to the court, 25 days from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition for the injunction. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(i) The respondent may file a response that explains, excuses, justifies, or denies the alleged unlawful violence or credible threats of violence.

(j) At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the respondent is a current employee of the entity requesting the injunction, the judge shall receive evidence concerning the employer's decision to retain, terminate, or otherwise discipline the respondent. If the judge finds by clear and convincing evidence that the respondent engaged in unlawful violence or made a

credible threat of violence, an injunction shall issue prohibiting further unlawful violence or threats of violence.

(k) (1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further violence or threats of violence since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(l) This section does not preclude either party from representation by private counsel or from appearing on his or her own behalf.

(m) Upon filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that, if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o) (1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p) (1) If a respondent, named in a restraining order issued under this section after a hearing, has not been served personally

with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the person does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the person by first-class mail sent to that person at the most current address for the person available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with this temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: ____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(q) (1) Information on any temporary restraining order or injunction relating to workplace violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement

agency having jurisdiction over the residence of the petitioner and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(5) At the request of the petitioner, an order issued under this section shall be served on the respondent, regardless of whether the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported unlawful violence or a credible threat of violence involving the parties to the proceedings. The petitioner shall provide the officer with an endorsed copy of the order and proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of unlawful violence or a credible threat of violence that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the petitioner or the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and obtain the respondent's address. The law enforcement officer shall at that time also enforce the order, but may not arrest or take the

respondent into custody for acts in violation of the order that were committed prior to the verbal notice of the terms and conditions of the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and constitutes sufficient notice for the purposes of this section and for the purposes of Section 273.6 and subdivision (g) of Section 12021 of the Penal Code. The petitioner shall mail an endorsed copy of the order to the respondent's mailing address provided to the law enforcement officer within one business day of the reported incident of unlawful violence or a credible threat of violence at which a verbal notice of the terms of the order was provided by a law enforcement officer.

(r) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(s) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t) Nothing in this section may be construed as expanding, diminishing, altering, or modifying the duty, if any, of an employer to provide a safe workplace for employees and other persons.

(u) (1) The Judicial Council shall develop forms, instructions, and rules for relating to matters governed by this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to unlawful violence or a credible threat of violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a

court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(v) There is no filing fee for a petition that alleges that a person has inflicted or threatened violence against an employee of the petitioner, or stalked the employee, or acted or spoken in any other manner that has placed the employee in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future violence or threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(w) (1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process by a sheriff or marshal of a temporary restraining order or injunction to be issued pursuant to this section if either of the following conditions apply:

(A) The temporary restraining order or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The temporary restraining order or injunction issued pursuant to this section is based on unlawful violence or a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

SEC. 3. Section 527.10 of the Code of Civil Procedure is amended to read:

527.10. (a) The court shall order that any party enjoined pursuant to Section 527.6, 527.8, or 527.85 be prohibited from taking any action to obtain the address or location of any protected person, unless there is good cause not to make that order.

(b) The Judicial Council shall develop forms necessary to effectuate this section.

SEC. 4. Section 527.85 of the Code of Civil Procedure is amended to read:

527.85. (a) Any chief administrative officer of a postsecondary educational institution, or an officer or employee designated by the chief administrative officer to maintain order on the school

campus or facility, a student of which has suffered a credible threat of violence made off the school campus or facility from any individual, which can reasonably be construed to be carried out or to have been carried out at the school campus or facility, may, with the written consent of the student, seek a temporary restraining order and an injunction, on behalf of the student and, at the discretion of the court, any number of other students at the campus or facility who are similarly situated.

(b) For the purposes of this section, the following definitions shall apply:

(1) “Chief administrative officer” means the principal, president, or highest ranking official of the postsecondary educational institution.

(2) “Course of conduct” means a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose, including any of the following:

(A) Following or stalking a student to or from school.

(B) Entering the school campus or facility.

(C) Following a student during school hours.

(D) Making telephone calls to a student.

(E) Sending correspondence to a student by any means, including, but not limited to, the use of the public or private mails, interoffice mail, fax, or computer e-mail.

(3) “Credible threat of violence” means a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.

(4) “Petitioner” means the chief administrative officer, or his or her designee, who petitions under subdivision (a) for a temporary restraining order and injunction.

(5) “Postsecondary educational institution” means a private institution of vocational, professional, or postsecondary education.

(6) “Respondent” means the person against whom the temporary restraining order and injunction are sought and, if the petition is granted, the restrained person.

(7) “Student” means an adult currently enrolled in or applying for admission to a postsecondary educational institution.

(8) “Temporary restraining order” and “injunction” mean orders that include any of the following restraining orders, whether issued ex parte, or after notice and hearing:

(A) An order enjoining a party from harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the student.

(B) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A).

(9) “Unlawful violence” means any assault or battery, or stalking as prohibited in Section 646.9 of the Penal Code, but shall not include lawful acts of self-defense or defense of others.

(c) This section does not permit a court to issue a temporary restraining order or injunction prohibiting speech or other activities that are constitutionally protected, or otherwise protected by Section 527.3 or any other provision of law.

(d) In the discretion of the court, on a showing of good cause, a temporary restraining order or injunction issued under this section may include other named family or household members of the student, or other students at the campus or facility.

(e) Upon filing a petition for an injunction under this section, the petitioner may obtain a temporary restraining order in accordance with subdivision (a) of Section 527, if the petitioner also files a declaration that, to the satisfaction of the court, shows reasonable proof that a student has suffered a credible threat of violence made off the school campus or facility by the respondent, and that great or irreparable harm would result to the student. The temporary restraining order may include any of the protective orders described in paragraph (8) of subdivision (b).

(f) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(g) A temporary restraining order granted under this section shall remain in effect, at the court’s discretion, for a period not to exceed 21 days, or if the court extends the time for hearing under

subdivision (h), not to exceed 25 days, unless otherwise modified or terminated by the court.

(h) Within 21 days, or if good cause appears to the court, within 25 days, from the date that a petition for a temporary order is granted or denied, a hearing shall be held on the petition for the injunction. If no request for temporary orders is made, the hearing shall be held within 21 days, or if good cause appears to the court, 25 days, from the date the petition is filed.

(i) The respondent may file a response that explains, excuses, justifies, or denies the alleged credible threats of violence.

(j) At the hearing, the judge shall receive any testimony that is relevant and may make an independent inquiry. Moreover, if the respondent is a current student of the entity requesting the injunction, the judge shall receive evidence concerning the decision of the postsecondary educational institution decision to retain, terminate, or otherwise discipline the respondent. If the judge finds by clear and convincing evidence that the respondent made a credible threat of violence off the school campus or facility, an injunction shall be issued prohibiting further threats of violence.

(k) (1) In the discretion of the court, an order issued after notice and hearing under this section may have a duration of not more than three years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, for a duration of not more than three years, without a showing of any further violence or threats of violence since the issuance of the original order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(l) This section does not preclude either party from representation by private counsel or from appearing on his or her own behalf.

(m) Upon filing of a petition for an injunction under this section, the respondent shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing

of the petition. Service shall be made at least five days before the hearing. The court may, for good cause, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(n) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to three years.

(o) (1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(p) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to that person at the most current address for the respondent available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration

date is issued at the hearing, a copy of the order will be served on you by mail at the following address:_____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(q) (1) Information on any temporary restraining order or injunction relating to school site violence issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the business day on which the order, reissuance, or termination of the order, and any proof of service, was made, to each law enforcement agency having jurisdiction over the residence of the petition and to any additional law enforcement agencies within the court’s discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order of proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported unlawful violence or a credible threat of violence.

(5) At the request of the petitioner, an order issued under this section shall be served on the respondent, regardless of whether the respondent has been taken into custody, by any law

enforcement officer who is present at the scene of reported unlawful violence or a credible threat of violence involving the parties to the proceedings. The petitioner shall provide the officer with an endorsed copy of the order and proof of service that the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of unlawful violence or a credible threat of violence that a protective order has been issued under this section, or that a person who has been taken into custody is the subject of an order, if the petitioner or the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and obtain the respondent's address. The law enforcement officer shall at that time also enforce the order, but may not arrest or take the respondent into custody for acts in violation of the order that were committed prior to the verbal notice of the terms and conditions of the order. The law enforcement officer's verbal notice of the terms of the order shall constitute service of the order and constitutes sufficient notice for the purposes of this section, and Section 273.6 and subdivision (g) of Section 12021 of the Penal Code. The petitioner shall mail an endorsed copy of the order to the respondent's mailing address provided to the law enforcement officer within one business day of the reported incident of unlawful violence or a credible threat of violence at which a verbal notice of the terms of the order was provided by a law enforcement officer.

(r) (1) A person subject to a protective order issued under this section shall not own, possess, purchase, receive, or attempt to purchase or receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(s) Any intentional disobedience of any temporary restraining order or injunction granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(t) Nothing in this section may be construed as expanding, diminishing, altering, or modifying the duty, if any, of a postsecondary educational institution to provide a safe environment for students and other persons.

(u) (1) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The forms for the petition and response shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

(2) A temporary restraining order or injunction relating to unlawful violence or a credible threat of violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(v) There is no filing fee for a petition that alleges that a person has threatened violence against a student of the petitioner, or stalked the student, or acted or spoken in any other manner that has placed the student in reasonable fear of violence, and that seeks a protective or restraining order or injunction restraining stalking or future threats of violence, in any action brought pursuant to this section. No fee shall be paid for a subpoena filed in connection with a petition alleging these acts. No fee shall be paid for filing a response to a petition alleging these acts.

(w) (1) Subject to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, there shall be no fee for the service of process by a sheriff or marshal of a temporary restraining order or injunction to be issued pursuant to this section if either of the following conditions apply:

(A) The temporary restraining order or injunction issued pursuant to this section is based upon stalking, as prohibited by Section 646.9 of the Penal Code.

(B) The temporary restraining order or injunction issued pursuant to this section is based upon a credible threat of violence.

(2) The Judicial Council shall prepare and develop forms for persons who wish to avail themselves of the services described in this subdivision.

SEC. 5. Section 527.9 of the Code of Civil Procedure is amended to read:

527.9. (a) A person subject to a temporary restraining order or injunction issued pursuant to Section 527.6, 527.8, or 527.85 or subject to a restraining order issued pursuant to Section 136.2 of the Penal Code, or Section 15657.03 of the Welfare and Institutions Code, shall relinquish the firearm pursuant to this section.

(b) Upon the issuance of a protective order against a person pursuant to subdivision (a), the court shall order that person to relinquish any firearm in that person's immediate possession or control, or subject to that person's immediate possession or control, within 24 hours of being served with the order, either by surrendering the firearm to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Section 12071 of the Penal Code. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court a receipt showing the firearm was surrendered to the local law enforcement agency or sold to a licensed gun dealer within 48 hours after receiving the order. In the event that it is necessary to continue the date of any hearing due to a request for a relinquishment order pursuant to this section, the court shall ensure that all applicable protective orders described in Section 6218 of the Family Code remain in effect or bifurcate the issues and grant the permanent restraining order pending the date of the hearing.

(c) A local law enforcement agency may charge the person subject to the order or injunction a fee for the storage of any firearm relinquished pursuant to this section. The fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes of this subdivision, "actual cost" means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the person relinquishing the firearm.

(d) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (b) shall state on its face that the

respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent's right under existing law to petition the court at a later date for modification of the order.

(e) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (b) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(f) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace

officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(g) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

SEC. 6. Section 241 of the Family Code is amended to read:

241. Except as provided in Section 6300, an order described in Section 240 may not be granted without notice to the respondent unless it appears from facts shown by the declaration in support of the petition for the order, or in the petition for the order, that great or irreparable injury would result to the petitioner before the matter can be heard on notice.

SEC. 7. Section 242 of the Family Code is amended to read:

242. (a) Within 21 days, or, if good cause appears to the court, 25 days from the date that a temporary order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days from the date that the petition is filed.

(b) If a hearing is not held within the time provided in subdivision (a), the court may nonetheless hear the matter, but the order is unenforceable unless reissued under Section 245.

SEC. 8. Section 243 of the Family Code is amended to read:

243. (a) When the matter first comes up for hearing, the petitioner must be ready to proceed.

(b) If a petition under this part has been filed, the respondent shall be personally served with a copy of the petition, the temporary order, if any, and the notice of hearing on the petition. Service shall be made at least five days before the hearing.

(c) If the petitioner fails to comply with subdivision (a) or subdivision (b), the court shall dissolve the order.

(d) If service is made under subdivision (b), the respondent may file a response that explains or denies the allegations in the petition. The respondent is entitled, as a matter of course, to one continuance for a reasonable period, to respond to the petition for orders.

(e) On motion of the petitioner or on its own motion, the court may shorten the time provided in this section for service on the respondent.

(f) If the response is served on the petitioner at least two days before the hearing, the petitioner is not entitled to a continuance on account of the response.

SEC. 9. Section 244 of the Family Code is amended to read:

244. (a) On the day of the hearing, the hearing on the petition shall take precedence over all other matters on the calendar that day, except older matters of the same character, and matters to which special precedence may be given by law.

(b) The hearing on the petition shall be set for trial at the earliest possible date and shall take precedence over all other matters, except older matters of the same character, and matters to which special precedence may be given by law.

SEC. 10. Section 245 of the Family Code is amended to read:

245. (a) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for hearing.

(b) The reissued order shall state on its face the date of expiration of the order.

(c) No fee shall be charged for the reissuance of the order unless the order had been dissolved three times previously.

SEC. 11. Section 246 of the Family Code is amended to read:

246. A request for a temporary restraining order described in Section 240, issued without notice, shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in

which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

SEC. 12. Section 6229 is added to the Family Code, to read:

6229. A minor, under 12 years of age, accompanied by a duly appointed and acting guardian ad litem, shall be permitted to appear in court without counsel for the limited purpose of requesting or opposing a request for a temporary restraining order or injunction, or both, under this division as provided in Section 374 of the Code of Civil Procedure.

SEC. 13. Section 6302 of the Family Code is repealed.

SEC. 14. Section 6302 is added to the Family Code, to read:

6302. A notice of hearing under this part shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.

SEC. 15. Section 6304 of the Family Code is amended to read:

6304. When making a protective order, as defined in Section 6218, where both parties are present in court, the court shall inform both the petitioner and the respondent of the terms of the order, including notice that the respondent is prohibited from owning, possessing, purchasing or receiving or attempting to own, possess, purchase or receive a firearm or ammunition, and including notice of the penalty for violation.

SEC. 16. Section 6320 of the Family Code is amended to read:

6320. (a) The court may issue an ex parte order enjoining a party from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the other party, and, in the discretion of the court, on a showing of good cause, of other named family or household members.

(b) On a showing of good cause, the court may include in a protective order a grant to the petitioner of the exclusive care, possession, or control of any animal owned, possessed, leased, kept, or held by either the petitioner or the respondent or a minor child residing in the residence or household of either the petitioner or the respondent. The court may order the respondent to stay away from the animal and forbid the respondent from taking, transferring,

encumbering, concealing, molesting, attacking, striking, threatening, harming, or otherwise disposing of the animal.

SEC. 17. Section 6320.5 of the Family Code is amended to read:

6320.5. (a) An order denying a petition for an ex parte order pursuant to Section 6320 shall include the reasons for denying the petition.

(b) An order denying a jurisdictionally adequate petition for an ex parte order, pursuant to Section 6320, shall provide the petitioner the right to a noticed hearing on the earliest date that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date of the order. The petitioner shall serve on the respondent, at least 5 days before the hearing, copies of all supporting papers filed with the court, including the application and affidavits.

(c) Notwithstanding subdivision (b), upon the denial of the ex parte order pursuant to Section 6320, the petitioner shall have the option of waiving his or her right to a noticed hearing. However, nothing in this section shall preclude a petitioner who waives his or her right to a noticed hearing from refileing a new petition, without prejudice, at a later time.

SEC. 18. Section 6322.7 of the Family Code is amended to read:

6322.7. (a) The court shall order that any party enjoined pursuant to an order issued under this part be prohibited from taking any action to obtain the address or location of any protected person, unless there is good cause not to make that order.

(b) The Judicial Council shall develop forms necessary to effectuate this section.

SEC. 19. Section 6345 of the Family Code is amended to read:

6345. (a) In the discretion of the court, the personal conduct, stay-away, and residence exclusion orders contained in a court order issued after notice and a hearing under this article may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed, upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original order, subject to termination or modification by further order of the court either on written

stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the orders.

(b) Notwithstanding subdivision (a), the duration of any orders, other than the protective orders described in subdivision (a), that are also contained in a court order issued after notice and a hearing under this article, including, but not limited to, orders for custody, visitation, support, and disposition of property, shall be governed by the law relating to those specific subjects.

(c) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

SEC. 20. Section 6380 of the Family Code is amended to read:

6380. (a) Each county, with the approval of the Department of Justice, shall, by July 1, 1996, develop a procedure, using existing systems, for the electronic transmission of data, as described in subdivision (b), to the Department of Justice. The data shall be electronically transmitted through the California Law Enforcement Telecommunications System (CLETS) of the Department of Justice by law enforcement personnel, or with the approval of the Department of Justice, court personnel, or another appropriate agency capable of maintaining and preserving the integrity of both the CLETS and the Domestic Violence Restraining Order System, as described in subdivision (e). Data entry is required to be entered only once under the requirements of this section, unless the order is served at a later time. A portion of all fees payable to the Department of Justice under subdivision (a) of Section 1203.097 of the Penal Code for the entry of the information required under this section, based upon the proportion of the costs incurred by the local agency and those incurred by the Department of Justice, shall be transferred to the local agency actually providing the data. All data with respect to criminal court protective orders issued, modified, extended, or terminated under subdivision (g) of Section 136.2 of the Penal Code, and all data filed with the court on the required Judicial Council forms with respect to protective orders, including their issuance, modification, extension, or termination, to which this division applies pursuant to Section 6221, shall be transmitted by the court or its designee within one business day to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into CLETS.

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(b) Upon the issuance of a protective order to which this division applies pursuant to Section 6221, or the issuance of a temporary restraining order or injunction relating to harassment, unlawful violence, or the threat of violence pursuant to Section 527.6, 527.8, or 527.85 of the Code of Civil Procedure, or the issuance of a criminal court protective order under subdivision (g) of Section 136.2 of the Penal Code, or the issuance of a juvenile court restraining order related to domestic violence pursuant to Section 213.5, 304, or 362.4 of the Welfare and Institutions Code, or the issuance of a protective order pursuant to Section 15657.03 of the Welfare and Institutions Code, or upon registration with the court clerk of a domestic violence protective or restraining order issued by the tribunal of another state, as defined in Section 6401, and including any of the foregoing orders issued in connection with an order for modification of a custody or visitation order issued pursuant to a dissolution, legal separation, nullity, or paternity proceeding the Department of Justice shall be immediately notified of the contents of the order and the following information:

(1) The name, race, date of birth, and other personal descriptive information of the respondent as required by a form prescribed by the Department of Justice.

(2) The names of the protected persons.

(3) The date of issuance of the order.

(4) The duration or expiration date of the order.

(5) The terms and conditions of the protective order, including stay-away, no-contact, residency exclusion, custody, and visitation provisions of the order.

(6) The department or division number and the address of the court.

(7) Whether or not the order was served upon the respondent.

(8) The terms and conditions of any restrictions on the ownership or possession of firearms.

All available information shall be included; however, the inability to provide all categories of information shall not delay the entry of the information available.

(c) The information conveyed to the Department of Justice shall also indicate whether the respondent was present in court to be informed of the contents of the court order. The respondent's presence in court shall provide proof of service of notice of the terms of the protective order. The respondent's failure to appear shall also be included in the information provided to the Department of Justice.

(d) (1) Within one business day of service, any law enforcement officer who served a protective order shall submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System, including his or her name and law enforcement agency, and shall transmit the original proof of service form to the issuing court.

(2) Within one business day of receipt of proof of service by a person other than a law enforcement officer, the clerk of the court shall submit the proof of service of a protective order directly into the Department of Justice Domestic Violation Restraining Order System, including the name of the person who served the order. If the court is unable to provide this notification to the Department of Justice by electronic transmission, the court shall, within one business day of receipt, transmit a copy of the proof of service to a local law enforcement agency. The local law enforcement agency shall submit the proof of service directly into the Department of Justice Domestic Violence Restraining Order System within one business day of receipt from the court.

(e) The Department of Justice shall maintain a Domestic Violence Restraining Order System and shall make available to court clerks and law enforcement personnel, through computer access, all information regarding the protective and restraining orders and injunctions described in subdivision (b), whether or not served upon the respondent.

(f) If a court issues a modification, extension, or termination of a protective order, it shall be on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice, and the transmitting agency for the county shall immediately notify the Department of Justice, by electronic transmission, of the terms of the modification, extension, or termination.

(g) The Judicial Council shall assist local courts charged with the responsibility for issuing protective orders by developing

informational packets describing the general procedures for obtaining a domestic violence restraining order and indicating the appropriate Judicial Council forms. The informational packets shall include a design, that local courts shall complete, that describes local court procedures and maps to enable applicants to locate filing windows and appropriate courts, and shall also include information on how to return proofs of service, including mailing addresses and fax numbers. The court clerk shall provide a fee waiver form to all applicants for domestic violence protective orders. The court clerk shall provide all Judicial Council forms required by this chapter to applicants free of charge. The informational packet shall also contain a statement that the protective order is enforceable in any state, as defined in Section 6401, and general information about agencies in other jurisdictions that may be contacted regarding enforcement of an order issued by a court of this state.

(h) For the purposes of this part, “electronic transmission” shall include computer access through the California Law Enforcement Telecommunications System (CLETS).

(i) Only protective and restraining orders issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice shall be transmitted to the Department of Justice. However, this provision shall not apply to a valid protective or restraining order related to domestic or family violence issued by a tribunal of another state, as defined in Section 6401. Those orders shall, upon request, be registered pursuant to Section 6404.

SEC. 21. Section 6384 of the Family Code is amended to read:

6384. (a) If a respondent named in an order issued under this part after a hearing has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

If a respondent named in a temporary restraining order or emergency protective order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order or emergency protective order, but the respondent does not appear at the hearing either in person or by counsel, and the terms and

conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining or emergency protective order, except for the duration of the order, the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(b) The Judicial Council forms for orders issued under this part shall contain a statement in substantially the following form:

“If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: ____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

SEC. 22. Section 6387 of the Family Code is amended to read:

6387. The court shall order the clerk of the court to provide to a petitioner, without cost, up to three certified, stamped, and endorsed copies of any order issued under this part, and of an extension, modification, or termination of the order.

SEC. 23. Section 6389 of the Family Code is amended to read:

6389. (a) A person subject to a protective order, as defined in Section 6218, shall not own, possess, purchase, or receive a firearm or ammunition while that protective order is in effect. Every person who owns, possesses, purchases or receives, or attempts to purchase or receive a firearm or ammunition while the protective order is in effect is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(b) On all forms providing notice that a protective order has been requested or granted, the Judicial Council shall include a notice that, upon service of the order, the respondent shall be ordered to relinquish possession or control of any firearms and not to purchase or receive or attempt to purchase or receive any firearms for a period not to exceed the duration of the restraining order.

(c) (1) Upon issuance of a protective order, as defined in Section 6218, the court shall order the respondent to relinquish any firearm

in the respondent's immediate possession or control or subject to the respondent's immediate possession or control.

(2) The relinquishment ordered pursuant to paragraph (1) shall occur by immediately surrendering the firearm in a safe manner, upon request of any law enforcement officer, to the control of the officer, after being served with the protective order. Alternatively, if no request is made by a law enforcement officer, the relinquishment shall occur within 24 hours of being served with the order, by either surrendering the firearm in a safe manner to the control of local law enforcement officials, or by selling the firearm to a licensed gun dealer, as specified in Section 12071 of the Penal Code. The law enforcement officer or licensed gun dealer taking possession of the firearm pursuant to this subdivision shall issue a receipt to the person relinquishing the firearm at the time of relinquishment. A person ordered to relinquish any firearm pursuant to this subdivision shall file with the court that issued the protective order, within 48 hours after being served with the order, the receipt showing the firearm was surrendered to a local law enforcement agency or sold to a licensed gun dealer. Failure to timely file a receipt shall constitute a violation of the protective order.

(3) The forms for protective orders adopted by the Judicial Council and approved by the Department of Justice shall require the petitioner to describe the number, types, and locations of any firearms presently known by the petitioner to be possessed or controlled by the respondent.

(4) It is recommended that every law enforcement agency in the state develop, adopt, and implement written policies and standards for law enforcement officers who request immediate relinquishment of firearms.

(d) If the respondent declines to relinquish possession of any firearm based on the assertion of the right against self-incrimination, as provided by the Fifth Amendment to the United States Constitution and Section 15 of Article I of the California Constitution, the court may grant use immunity for the act of relinquishing the firearm required under this section.

(e) A local law enforcement agency may charge the respondent a fee for the storage of any firearm pursuant to this section. This fee shall not exceed the actual cost incurred by the local law enforcement agency for the storage of the firearm. For purposes

of this subdivision, “actual cost” means expenses directly related to taking possession of a firearm, storing the firearm, and surrendering possession of the firearm to a licensed dealer as defined in Section 12071 of the Penal Code or to the respondent.

(f) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall state on its face that the respondent is prohibited from owning, possessing, purchasing, or receiving a firearm while the protective order is in effect and that the firearm shall be relinquished to the local law enforcement agency for that jurisdiction or sold to a licensed gun dealer, and that proof of surrender or sale shall be filed with the court within a specified period of receipt of the order. The order shall also state on its face the expiration date for relinquishment. Nothing in this section shall limit a respondent’s right under existing law to petition the court at a later date for modification of the order.

(g) The restraining order requiring a person to relinquish a firearm pursuant to subdivision (c) shall prohibit the person from possessing or controlling any firearm for the duration of the order. At the expiration of the order, the local law enforcement agency shall return possession of any surrendered firearm to the respondent, within five days after the expiration of the relinquishment order, unless the local law enforcement agency determines that (1) the firearm has been stolen, (2) the respondent is prohibited from possessing a firearm because the respondent is in any prohibited class for the possession of firearms, as defined in Sections 12021 and 12021.1 of the Penal Code and Sections 8100 and 8103 of the Welfare and Institutions Code, or (3) another successive restraining order is issued against the respondent under this section. If the local law enforcement agency determines that the respondent is the legal owner of any firearm deposited with the local law enforcement agency and is prohibited from possessing any firearm, the respondent shall be entitled to sell or transfer the firearm to a licensed dealer as defined in Section 12071 of the Penal Code. If the firearm has been stolen, the firearm shall be restored to the lawful owner upon his or her identification of the firearm and proof of ownership.

(h) The court may, as part of the relinquishment order, grant an exemption from the relinquishment requirements of this section for a particular firearm if the respondent can show that a particular firearm is necessary as a condition of continued employment and

that the current employer is unable to reassign the respondent to another position where a firearm is unnecessary. If an exemption is granted pursuant to this subdivision, the order shall provide that the firearm shall be in the physical possession of the respondent only during scheduled work hours and during travel to and from his or her place of employment. In any case involving a peace officer who as a condition of employment and whose personal safety depends on the ability to carry a firearm, a court may allow the peace officer to continue to carry a firearm, either on duty or off duty, if the court finds by a preponderance of the evidence that the officer does not pose a threat of harm. Prior to making this finding, the court shall require a mandatory psychological evaluation of the peace officer and may require the peace officer to enter into counseling or other remedial treatment program to deal with any propensity for domestic violence.

(i) During the period of the relinquishment order, a respondent is entitled to make one sale of all firearms that are in the possession of a local law enforcement agency pursuant to this section. A licensed gun dealer, who presents a local law enforcement agency with a bill of sale indicating that all firearms owned by the respondent that are in the possession of the local law enforcement agency have been sold by the respondent to the licensed gun dealer, shall be given possession of those firearms, at the location where a respondent's firearms are stored, within five days of presenting the local law enforcement agency with a bill of sale.

(j) The disposition of any unclaimed property under this section shall be made pursuant to Section 1413 of the Penal Code.

(k) The return of a firearm to any person pursuant to subdivision (g) shall not be subject to the requirements of subdivision (d) of Section 12072 of the Penal Code.

(l) If the respondent notifies the court that he or she owns a firearm that is not in his or her immediate possession, the court may limit the order to exclude that firearm if the judge is satisfied the respondent is unable to gain access to that firearm while the protective order is in effect.

(m) Any respondent to a protective order who violates any order issued pursuant to this section shall be punished under the provisions of subdivision (g) of Section 12021 of the Penal Code.

SEC. 24. Section 6103.2 of the Government Code is amended to read:

6103.2. (a) Section 6103 does not apply to any fee or charge or expense for official services rendered by a sheriff or marshal in connection with the levy of writs of attachment, execution, possession, or sale. The fee, charge, or expense may be advanced to the sheriff or marshal, as otherwise required by law.

(b) (1) Notwithstanding Section 6103, the sheriff or marshal, in connection with the service of process or notices, may require that all fees which a public agency, or any person or entity, is required to pay under provisions of law other than this section, be prepaid by a public agency named in Section 6103, or by any person or entity, prior to the performance of any official act. This authority to require prepayment shall include fees governed by Section 6103.5.

(2) This subdivision does not apply to the service of process or notices in any action by the district attorney's office for the establishment or enforcement of a child support obligation.

(3) This subdivision does not apply to a particular jurisdiction unless the sheriff or marshal, as the case may be, imposes the requirement of prepayment upon public agencies and upon all persons or entities within the private sector.

(4) The requirement for prepayment of a fee deposit does not apply to orders or injunctions described in paragraph (1) of subdivision (x) of Section 527.6, paragraph (1) of subdivision (w) of Section 527.8, or paragraph (1) of subdivision (w) of Section 527.85 of the Code of Civil Procedure, Division 10 (commencing with Section 6200) of the Family Code (Prevention of Domestic Violence), and Chapter 11 (commencing with Section 15600) of Part 3 of Division 9 of the Welfare and Institutions Code (Elder Abuse and Dependent Adult Civil Protection Act).

However, a sheriff or marshal may submit a billing to the superior court for payment of fees in the manner prescribed by the Judicial Council irrespective of the in forma pauperis status of any party under Rules 3.50 to 3.63, inclusive, of the California Rules of Court. The fees for service, cancellation of service, and making a not found return may not exceed the amounts provided in Sections 26721, 26736, and 26738, respectively, and are subject to the provisions of Section 26731.

SEC. 25. Section 213.5 of the Welfare and Institutions Code is amended to read:

213.5. (a) After a petition has been filed pursuant to Section 311 to declare a child a dependent child of the juvenile court, and until the time that the petition is dismissed or dependency is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or in the manner provided by Section 6300 of the Family Code, if related to domestic violence, the juvenile court has exclusive jurisdiction to issue ex parte orders (1) enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; and (2) excluding any person from the dwelling of the person who has care, custody, and control of the child. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former social worker or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(b) After a petition has been filed pursuant to Section 601 or 602 to declare a child a ward of the juvenile court, and until the

time that the petition is dismissed or wardship is terminated, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code, the juvenile court may issue ex parte orders (1) enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child or any other child in the household; (2) excluding any person from the dwelling of the person who has care, custody, and control of the child; or (3) enjoining the child from contacting, threatening, stalking, or disturbing the peace of any person the court finds to be at risk from the conduct of the child, or with whom association would be detrimental to the child. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of any parent, legal guardian, or current caretaker of the child, regardless of whether the child resides with that parent, legal guardian, or current caretaker, upon application in the manner provided by Section 527 of the Code of Civil Procedure or, if related to domestic violence, in the manner provided by Section 6300 of the Family Code. A court may also issue an ex parte order enjoining any person from molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 635m of the Penal Code, destroying the personal property, contacting, either directly or indirectly, by mail or otherwise, coming within a specified distance of, or disturbing the peace of the child's current or former probation officer or court appointed special advocate, upon application in the manner provided by Section 527 of the Code of Civil Procedure.

(c) If a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 21 days or, if good cause appears to the court, 25 days from the date the temporary restraining order is granted. The court may, on the motion of the person seeking the restraining order, or on its own motion, shorten the time for service of the order to show cause on the person to be restrained. The court may, upon its own motion or the filing of a declaration by the person seeking the restraining order, find that the person to be restrained could not be served within the time required by law and reissue an order previously issued and dissolved by the court for failure to serve the person to be restrained. The reissued order shall remain in effect until the date set for the hearing. The reissued order shall state on its face the date of expiration of the order. Any hearing pursuant to this section may be held simultaneously with any regularly scheduled hearings held in proceedings to declare a child a dependent child or ward of the juvenile court pursuant to Section 300, 601, or 602, or subsequent hearings regarding the dependent child or ward.

(d) The juvenile court may issue, upon notice and a hearing, any of the orders set forth in subdivisions (a), (b), and (c). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, no more than three years, unless otherwise terminated by the court, extended by mutual consent of all parties to the restraining order, or extended by further order of the court on the motion of any party to the restraining order.

(e) (1) The juvenile court may issue an order made pursuant to subdivision (a), (b), or (d) excluding a person from a residence or dwelling. This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling.

(2) The court may issue an order under paragraph (1) only on a showing of all of the following:

(A) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(B) That the party to be excluded has assaulted or threatens to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party.

(C) That physical or emotional harm would otherwise result to the other party, to any person under the care, custody, and control of the other party, or to any minor child of the parties or of the other party.

(f) Any order issued pursuant to subdivision (a), (b), (c), or (d) shall state on its face the date of expiration of the order.

(g) All data with respect to a juvenile court protective order, or extension, modification, or termination thereof, granted pursuant to subdivision (a), (b), (c), or (d), shall be transmitted by the court or its designee, within one business day, to law enforcement personnel by either one of the following methods:

(1) Transmitting a physical copy of the order to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(2) With the approval of the Department of Justice, entering the order into CLETS directly.

(h) Any willful and knowing violation of any order granted pursuant to subdivision (a), (b), (c), or (d) shall be a misdemeanor punishable under Section 273.65 of the Penal Code.

(i) A juvenile court restraining order related to domestic violence issued by a court pursuant to this section shall be issued on forms adopted by the Judicial Council of California and that have been approved by the Department of Justice pursuant to subdivision (i) of Section 6380 of the Family Code. However, the fact that an order issued by a court pursuant to this section was not issued on forms adopted by the Judicial Council and approved by the Department of Justice shall not, in and of itself, make the order unenforceable.

(j) (1) Prior to a hearing on the issuance or denial of an order under this part, a search shall be conducted as described in subdivision (a) of Section 6306 of the Family Code.

(2) Prior to deciding whether to issue an order under this part, the court shall consider the following information obtained pursuant to a search conducted under paragraph (1): any conviction for a violent felony specified in Section 667.5 of the Penal Code or a

serious felony specified in Section 1192.7 of the Penal Code; any misdemeanor conviction involving domestic violence, weapons, or other violence; any outstanding warrant; parole or probation status; any prior restraining order; and any violation of a prior restraining order.

(3) (A) If the results of the search conducted pursuant to paragraph (1) indicate that an outstanding warrant exists against the subject of the search, the court shall order the clerk of the court to immediately notify, by the most effective means available, appropriate law enforcement officials of any information obtained through the search that the court determines is appropriate. The law enforcement officials notified shall take all actions necessary to execute any outstanding warrants or any other actions, as appropriate and as soon as practicable.

(B) If the results of the search conducted pursuant to paragraph (1) indicate that the subject of the search is currently on parole or probation, the court shall order the clerk of the court to immediately notify, by the most effective means available, the appropriate parole or probation officer of any information obtained through the search that the court determines is appropriate. The parole or probation officer notified shall take all actions necessary to revoke any parole or probation, or any other actions, with respect to the subject person, as appropriate and as soon as practicable.

(k) Upon making any order for custody or visitation pursuant to this section, the court shall follow the procedures specified in subdivisions (c) and (d) of Section 6323 of the Family Code.

SEC. 26. Section 15657.03 of the Welfare and Institutions Code is amended to read:

15657.03. (a) (1) An elder or dependent adult who has suffered abuse as defined in Section 15610.07 may seek protective orders as provided in this section.

(2) A petition may be brought on behalf of an abused elder or dependent adult by a conservator or a trustee of the elder or dependent adult, an attorney-in-fact of an elder or dependent adult who acts within the authority of the power of attorney, a person appointed as a guardian ad litem for the elder or dependent adult, or other person legally authorized to seek such relief.

(b) For the purposes of this section:

(1) “Conservator” means the legally appointed conservator of the person or estate of the petitioner, or both.

(2) “Petitioner” means the elder or dependent adult to be protected by the protective orders and, if the court grants the petition, the protected person.

(3) “Protective order” means an order that includes any of the following restraining orders, whether issued ex parte, after notice and hearing, or in a judgment:

(A) An order enjoining a party from abusing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, harassing, telephoning, including, but not limited to, making annoying telephone calls as described in Section 653m of the Penal Code, destroying personal property, contacting, either directly or indirectly, by mail or otherwise, or coming within a specified distance of, or disturbing the peace of the petitioner, and, in the discretion of the court, on a showing of good cause, of other named family or household members or a conservator, if any, of the petitioner.

(B) An order excluding a party from the petitioner’s residence or dwelling, except that this order shall not be issued if legal or equitable title to, or lease of, the residence or dwelling is in the sole name of the party to be excluded, or is in the name of the party to be excluded and any other party besides the petitioner.

(C) An order enjoining a party from specified behavior that the court determines is necessary to effectuate orders described in subparagraph (A) or (B).

(4) “Respondent” means the person against whom the protective orders are sought and, if the petition is granted, the restrained person.

(c) An order may be issued under this section, with or without notice, to restrain any person for the purpose of preventing a recurrence of abuse, if a declaration shows, to the satisfaction of the court, reasonable proof of a past act or acts of abuse of the petitioning elder or dependent adult.

(d) Upon filing a petition for protective orders under this section, the petitioner may obtain a temporary restraining order in accordance with Section 527 of the Code of Civil Procedure, except to the extent this section provides a rule that is inconsistent. The temporary restraining order may include any of the protective orders described in paragraph (3) of subdivision (b). However, the court may issue an ex parte order excluding a party from the

petitioner's residence or dwelling only on a showing of all of the following:

(1) Facts sufficient for the court to ascertain that the party who will stay in the dwelling has a right under color of law to possession of the premises.

(2) That the party to be excluded has assaulted or threatens to assault the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(3) That physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or a conservator of the petitioner.

(e) A request for the issuance of a temporary restraining order without notice under this section shall be granted or denied on the same day that the petition is submitted to the court, unless the petition is filed too late in the day to permit effective review, in which case the order shall be granted or denied on the next day of judicial business in sufficient time for the order to be filed that day with the clerk of the court.

(f) Within 21 days, or, if good cause appears to the court, 25 days, from the date that a request for a temporary restraining order is granted or denied, a hearing shall be held on the petition. If no request for temporary orders is made, the hearing shall be held within 21 days, or, if good cause appears to the court, 25 days, from the date that the petition is filed.

(g) The respondent may file a response that explains or denies the alleged abuse.

(h) The court may issue, upon notice and a hearing, any of the orders set forth in paragraph (3) of subdivision (b). The court may issue, after notice and hearing, an order excluding a person from a residence or dwelling if the court finds that physical or emotional harm would otherwise result to the petitioner, other named family or household member of the petitioner, or conservator of the petitioner.

(i) (1) In the discretion of the court, an order issued after notice and a hearing under this section may have a duration of not more than five years, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. These orders may be renewed upon the request of a party, either for five years or permanently, without a showing of any further abuse since the issuance of the original

order, subject to termination or modification by further order of the court either on written stipulation filed with the court or on the motion of a party. The request for renewal may be brought at any time within the three months before the expiration of the order.

(2) The failure to state the expiration date on the face of the form creates an order with a duration of three years from the date of issuance.

(j) In a proceeding under this section, a support person may accompany a party in court and, if the party is not represented by an attorney, may sit with the party at the table that is generally reserved for the party and the party's attorney. The support person is present to provide moral and emotional support for a person who alleges he or she is a victim of abuse. The support person is not present as a legal adviser and may not provide legal advice. The support person may assist the person who alleges he or she is a victim of abuse in feeling more confident that he or she will not be injured or threatened by the other party during the proceedings if the person who alleges he or she is a victim of abuse and the other party are required to be present in close proximity. This subdivision does not preclude the court from exercising its discretion to remove the support person from the courtroom if the court believes the support person is prompting, swaying, or influencing the party assisted by the support person.

(k) Upon the filing of a petition for protective orders under this section, the respondent shall be personally served with a copy of the petition, notice of the hearing or order to show cause, temporary restraining order, if any, and any declarations in support of the petition. Service shall be made at least five days before the hearing. The court may, on motion of the petitioner or on its own motion, shorten the time for service on the respondent.

(l) A notice of hearing under this section shall notify the respondent that if he or she does not attend the hearing, the court may make orders against him or her that could last up to five years.

(m) (1) The court may, upon the filing of a declaration by the petitioner that the respondent could not be served within the time required by statute, reissue an order previously issued and dissolved by the court for failure to serve the respondent. The reissued order shall remain in effect until the date set for the hearing.

(2) The reissued order shall state on its face the date of expiration of the order.

(n) (1) If a respondent, named in an order issued under this section after a hearing, has not been served personally with the order but has received actual notice of the existence and substance of the order through personal appearance in court to hear the terms of the order from the court, no additional proof of service is required for enforcement of the order.

(2) If the respondent named in a temporary restraining order is personally served with the order and notice of hearing with respect to a restraining order or protective order based on the temporary restraining order, but the respondent does not appear at the hearing, either personally or by an attorney, and the terms and conditions of the restraining order or protective order issued at the hearing are identical to the temporary restraining order, except for the duration of the order, then the restraining order or protective order issued at the hearing may be served on the respondent by first-class mail sent to the respondent at the most current address for the respondent that is available to the court.

(3) The Judicial Council form for temporary orders issued pursuant to this subdivision shall contain a statement in substantially the following form:

“If you have been personally served with a temporary restraining order and notice of hearing, but you do not appear at the hearing either in person or by a lawyer, and a restraining order that is the same as this temporary restraining order except for the expiration date is issued at the hearing, a copy of the order will be served on you by mail at the following address: ____.

If that address is not correct or you wish to verify that the temporary restraining order was converted to a restraining order at the hearing without substantive change and to find out the duration of that order, contact the clerk of the court.”

(o) (1) Information on any protective order relating to elder or dependent adult abuse issued by a court pursuant to this section shall be transmitted to the Department of Justice in accordance with either paragraph (2) or (3).

(2) The court shall order the petitioner or the attorney for the petitioner to deliver a copy of an order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by the close of the

business day on which the order, reissuance, extension, modification, or termination was made, to each law enforcement agency having jurisdiction over the residence of the petitioner, and to any additional law enforcement agencies within the court's discretion as are requested by the petitioner.

(3) Alternatively, the court or its designee shall transmit, within one business day, to law enforcement personnel all information required under subdivision (b) of Section 6380 of the Family Code regarding any order issued under this section, or a reissuance, extension, modification, or termination of the order, and any subsequent proof of service, by either one of the following methods:

(A) Transmitting a physical copy of the order or proof of service to a local law enforcement agency authorized by the Department of Justice to enter orders into the California Law Enforcement Telecommunications System (CLETS).

(B) With the approval of the Department of Justice, entering the order or proof of service into CLETS directly.

(4) Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported abuse.

(5) An order issued under this section shall, on request of the petitioner, be served on the respondent, whether or not the respondent has been taken into custody, by any law enforcement officer who is present at the scene of reported abuse involving the parties to the proceeding. The petitioner shall provide the officer with an endorsed copy of the order and a proof of service, which the officer shall complete and send to the issuing court.

(6) Upon receiving information at the scene of an incident of abuse that a protective order has been issued under this section, or that a person who has been taken into custody is the respondent to that order, if the protected person cannot produce an endorsed copy of the order, a law enforcement officer shall immediately attempt to verify the existence of the order.

(7) If the law enforcement officer determines that a protective order has been issued, but not served, the officer shall immediately notify the respondent of the terms of the order and where a written copy of the order can be obtained, and the officer shall at that time also enforce the order. The law enforcement officer's verbal notice

of the terms of the order shall constitute service of the order and is sufficient notice for the purposes of this section and for the purposes of Section 273.6 of the Penal Code.

(p) Nothing in this section shall preclude either party from representation by private counsel or from appearing on the party's own behalf.

(q) There is no filing fee for a petition, response, or paper seeking the reissuance, modification, or enforcement of a protective order filed in a proceeding brought pursuant to this section.

(r) Pursuant to paragraph (4) of subdivision (b) of Section 6103.2 of the Government Code, a petitioner shall not be required to pay a fee for law enforcement to serve an order issued under this section.

(s) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(t) (1) A person subject to a protective order under this section shall not own, possess, purchase, receive, or attempt to receive a firearm or ammunition while the protective order is in effect.

(2) The court shall order a person subject to a protective order issued under this section to relinquish any firearms he or she owns or possesses pursuant to Section 527.9 of the Code of Civil Procedure.

(3) Every person who owns, possesses, purchases, or receives, or attempts to purchase or receive a firearm or ammunition while subject to a protective order issued under this section is punishable pursuant to subdivision (g) of Section 12021 of the Penal Code.

(4) This subdivision shall not apply in a case in which the protective order issued under this section was made solely on the basis of financial abuse unaccompanied by force, threat, harassment, intimidation, or any other form of abuse.

(u) Any willful disobedience of any temporary restraining order or restraining order after hearing granted under this section is punishable pursuant to Section 273.6 of the Penal Code.

(v) This section does not apply to any action or proceeding governed by Title 1.6C (commencing with Section 1788) of Part 4 of Division 3 of the Civil Code, by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, or by Division 10 (commencing with Section 6200) of the Family Code. Nothing in this section shall preclude a petitioner's right to use other existing civil remedies.

(w) The Judicial Council shall develop forms, instructions, and rules relating to matters governed by this section. The petition and response forms shall be simple and concise, and their use by parties in actions brought pursuant to this section shall be mandatory.

SEC. 27. Section 15657.04 of the Welfare and Institutions Code is amended to read:

15657.04. (a) The court shall order that any party enjoined pursuant to Section 15657.03 be prohibited from taking any action to obtain the address or location of any protected person, unless there is good cause not to make that order.

(b) The Judicial Council shall develop forms necessary to effectuate this section.

SEC. 28. This act shall become operative on January 1, 2012.

Approved _____, 2010

Governor